In the High Court of Punjab and Haryana at Chandigarh

.....

C.W.P. No.15632 of 2006

.....

Date of decision: 28.9.2006

Suveer Singh

.....Petitioner

v.

Punjabi University, Patiala through its Registrar and another

.....Respondents

....

Coram: Hon'ble Mr. Justice S.S. Nijjar
Hon'ble Mr. Justice S.S. Saron

Present: Mr. Gurminder Singh, Advocate for the petitioner.

.....

S.S. Saron, J.

The petitioner by way of the present petition under Articles 226/227 of the Constitution of India seeks quashing of the advertisement and consequent selection process for the post of Lecturer of Defence and Strategic Studies in Punjabi University Patiala (respondent No.1) advertised on 17.5.2006 (Annexure-P.6). A further prayer has been made for quashing the appointment (Annexure-P.5) of Kewal Krishan (respondent No.2) as ad hoc Lecturer in the subject of Defence and Strategic Studies in Punjabi University Patiala alleging the same to be in contravention of the order passed by this Court in C.W.P. No.12223 of 2004 titled Suveer Singh v. Punjabi University Patiala, decided on 24.5.2005 (Annexure-P.2) and the

judgment of the Supreme Court dated 6.12.2005 (Annexure-P.4) passed in the case of Umrao Singh v. Punjabi University Patiala and others, Civil Appeal No.7244 of 2005.

The Punjabi University Patiala (respondent No.1) (`University' – for short) issued an advertisement on 25.7.2002 (Annexure-P.1) inviting applications for various posts of Lecturers and Readers in different departments of the University including 3 posts of Lecturers in the Department of Defence and Strategic Studies. Six candidates applied for the said posts of Lecturers in the Department of Defence and Strategic Studies. The petitioner claims that he was fully eligible and was the only candidate possessing a Ph.D. degree. In consequence of the selection that was conducted on 9.10.2002, the University selected three candidates namely, Inderjit Singh, Umrao Singh and Kewal Krishan (respondent No.2). The said selection was challenged by the petitioner in this Court by way of C.W.P. No.12223 of 2004, which was heard along with another writ petition filed by one Ajay Sondhi (C.W.P. No.18376 of 2002) who also prayed for setting aside the said selection. This Court disposed of both the petitions in terms of its order dated 24.5.2005 (Annexure-P.2). The selection made by the University on 9.10.2002 of the aforesaid three candidates was quashed. It was inter alia ordered that the University would carry out a fresh selection process from amongst the persons who were eligible on the last date of receipt of applications which shall be completed within a period of four months from the date the copy of the order was received. The three selected candidates whose appointment as Lecturers in the Department of Defence and Strategic Studies had been quashed filed

Special Leave Petitions (SLPs) in the Supreme Court of India. In the meanwhile the University on 21.10.2005 initiated the selection process from amongst the eligible candidates as had been ordered by this Court. The petitioner being an eligible candidate was called for interview on 7.11.2005 along with five candidates including the three selected candidates whose selection had been set aside. Thereafter, leave to Appeal was granted in the SLPs filed by the three selected candidates and the Civil Appeals were disposed of by the Supreme Court in terms of its order dated 6.12.2005 (Annexure-P.4). It was held by the Supreme Court that there was no infirmity in the selection of Umrao Singh. Besides, there was no challenge to the selection of Inderjit Singh and no reasons had been indicated as to how his selection was not legal. As such the order of this Court insofar as the selections of Inderjit Singh and Umrao Singh was concerned was set aside. However, the order of this Court insofar as the selection of Kewal Krishan (respondent No.2) had been set aside, was maintained and upheld. As such the appeals filed by Umrao Singh and Inderjit Singh were allowed by the Supreme Court and that filed by Kewal Krishan (respondent No.2) was dismissed. It was, however, made clear that the selection process which was permitted to be continued shall be finalized after giving effect to the judgment.

It is alleged that the University authorities in a completely illegal manner appointed Kewal Krishan (respondent No.2) on 16.2.2006 (Annexure-P.5) as an ad hoc Lecturer in the subject of Defence and Strategic Studies. Thereafter, the University instead of finalizing the selection in pursuance of the interviews held on 7.11.2005 issued an

advertisement on 17.5.2006 (Annexure-P.6) wherein one post of Lecturer in the subject of Defence and Strategic Studies in the University has been advertised. The petitioner made a representation on 19.9.2006 (Annexure-P.7) and sought his consideration and appointment in respect of the post of Lecturer in Defence and Strategic Studies in pursuance of the interviews held on 9.10.2002 and 7.11.2005. However, the said representation has not been considered. He has thus approached this Court by way of the present petition.

Learned counsel appearing for the petitioner contends that the action of the respondent-University in advertising the post of Defence and Strategic Studies afresh is clearly illegal and in violation of the order dated 6.12.2005 (Annexure-P.4) passed by the Supreme Court wherein it was made clear that selection process which was permitted to be continued shall be finalized after giving effect to the said judgment. It is contended that the petitioner has been successful upto the Supreme Court and he has legitimate right to be considered and appointed against the post as he was an applicant in the selection process held on 9.10.2002 as also the interviews conducted on 17.11.2005. The rights of the petitioner would be prejudiced if the fresh process of selection is carried out by issuance of an advertisement as it would enlarge the zone of consideration. It is further contended that the selection of Kewal Krishan (respondent No.2) was set aside by this Court which was affirmed by the Supreme Court. Therefore, his appointment is illegal and arbitrary besides, being a case of favouritism.

We have given our thoughtful consideration to the submissions made by the petitioner and also perused the record. The petitioner has only

undergone the process of selection and he was never selected for the post of Lecturer of Defence and Strategic Studies. Therefore, being an unsuccessful candidate in the process of selection his rights are not in any manner affected. In fact, as is well known even selection of a candidate does not confer on him an indefeasible right to be appointed to the post. Even inclusion of a name of the candidate in the merit list for selection does not confer any right to be selected on the vacancy that has been notified. The notification of vacancies merely amount to an invitation to the qualified candidates to apply for recruitment. In case of their selection even no right is conferred to be appointed. The right which the petitioner has is that of consideration for selection and by issuance of a fresh advertisement for selection in pursuance of the advertisement dated 17.5.2006 (Annexure-P.6) for various posts including that of Lecturers in the subject of Defence and Strategic Studies his right of consideration is in no manner affected. Learned counsel for the petitioner has, however, contended that by re-advertising the posts for which the petitioner has participated in the earlier selection would materially change the zone of consideration. We are unable to agree to the said contention as zone of consideration for selection to a post is primarily for selection to a higher post from amongst the in service candidates. The petitioner is not an in service candidate who is already in the service of the University. The contention that the issuance of the advertisement negates the directions of this Court and the Supreme Court is also without merit. This Court vide order dated 24.5.2005 (Annexure-P.2) set aside the selection of the three selected candidates, namely, Inderjit Singh, Umrao Singh and Kewal Krishan (respondent No.2) as Lecturers in

Defence and Strategic Studies. It was further permitted that the University would carry out a fresh selection process from amongst the persons who were eligible on the last date of receipt of applications which was to be completed within the period of four months. The Hon'ble Supreme Court vide order dated 6.12.2005 (Annexure-P.4) made it clear that the selection process which was permitted to be continued shall be finalized after giving effect to the said judgment. The said directions were in the context and would apply if the same selection process was to be carried and it cannot be construed that the University could not cancel the selection process that had been initiated or carry out a fresh selection by issuance of an advertisement. The orders of the Court are not to be construed literally and the observations made and the directions issued are to be read in the context in which they appear. Besides, as has already been noticed that selection to a post does not confer an indefeasible right of appointment. The right of the petitioner is that of consideration for selection and not that of appointment. In response to the advertisement dated 17.5.2006 (Annexure-P.6), the petitioner has a right to apply for consideration for appointment as a Lecturer in Defence and Strategic Studies. Therefore, it cannot be said that his rights are materially affected or that any prejudice has been caused to him.

The contentions as regards the appointment of Kewal Krishan (respondent No.2) as Lecturer in Defence and Strategic Studies is also without merit. It may be noticed that said Kewal Krishan (respondent No.2) was appointed vide appointment letter dated 16.2.2006 (Annexure-P.5). The said appointment letter envisages that keeping in view the foremost necessity of the Defence and Strategic Studies, the Vice-Chancellor has

granted approval for the appointment of Kewal Krishan as Lecturer against the vacant post on the terms and conditions as set out therein. Condition No.4 of the appointment letter is to the following effect:-

> "4. This appointment will be on Ad hoc basis for six months or until the post is filled by a regular appointee, whichever occur (sic. - occurs) earlier."

Therefore, evidently the appointment of Kewal Krishan is purely on account of urgent necessity, besides is on ad hoc basis for six months or until the post is filled by a regular appointee which ever occurs earlier. The ad hoc appointment of respondent No.2 would not confer any right on him in view of the law laid down by the Supreme Court in Secretary, State of Karnatka and others v. Uma Devi (2006) 4 SCC 1 wherein it has been held that an ad hoc appointment does not confer any right on the appointee. Such an employee does not have any right to regular or permanent employment. As such with the appointment of respondent No.2 on ad hoc basis for a period of six months or till the post is filled by a regular appointee whichever occurs earlier, would also not affect the rights of the petitioner.

In the circumstances, there is no merit in this petition and the same is accordingly dismissed.

(S.S. Nijjar)
Judge

September 28, 2006.

(S.S. Saron)
Judge

hsp